

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WALTER CHUNN,

No. C 15-5240 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL;
VACATING ORDER TO SHOW
CAUSE**

v.

STATE OF CALIFORNIA, Warden,


Respondents.

Petitioner, an inmate in the Sonoma County Jail, California prisoner, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 challenging a conviction and sentence from Marin County Superior Court in 2013. It has become clear that he has challenged the legality of the same criminal judgment in a prior petition. *See Chunn v. Harris*, No. C. 15-0990 WHA (PR). A second or successive petition may not be filed in the district court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The instant petition is accordingly **DISMISSED** without prejudice to refiling if petitioner obtains the necessary order. Alternatively, petitioner may file a motion to amend the petition in his earlier case to add the two claims raised in the petition filed in the instant case. The order to show cause (dkt. 5) is **VACATED**.

No certificate of appealability is warranted in this case because a reasonable jurist would not find the dismissal of this petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The clerk shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: January 7, 2016.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE